In the High Court of Punjab and Haryana, at Chandigarh.

Civil Revision No. 6015 of 2008

Date of Decision: 2.12.2008

Atma Ram

…Petitioner

Versus

Smt. Shanta Gupta

... Respondent

CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA.

Present: Mr. Baldev Raj Mahajan, Advocate
for the petitioner.

Mr. Chetan Mittal, Senior Advocate
with Mr. Kunal Mulwani, Advocate
for the caveator.

Kanwaljit Singh Ahluwalia, J. (Oral)

Learned counsel for the petitioner rely upon three sale deeds Ex.P1 to Ex.P3 to state that soon before institution of the eviction petition, landlord had sold three shops.

To controvert this, learned counsel for the caveator (landlord/respondent) states that a bare glance at sale deeds Ex.P1 to Ex.P3 will reveal that those were the shops which were sold to the tenants who were in possession of these shops for a period more than 15 years.

Two Courts below have concluded that the personal necessity of the landlord is made out as the shop is required for setting up office

of his son who is an Advocate .

Mr. Mahajan referred to the cross-examination of the landlord to state that evidence has not been appraised in right earnest. On the observation made by this Court that a revisional Court cannot re-appreciate and do re-appraisal of the evidence especially when the view formulated by the two Courts below is not a such which his perverse, Mr.Mahajan has stated that he is conscious of this legal position and, therefore, he may be permitted to make an alternative prayer to this Court. He states that the petitioner-tenant is running a watch shop in the demised premises. He is also carrying on heavy inventory and he has to dispose off articles in the shop in order to shift to alternative place, therefore, a reasonable time be granted. He has prayed that three years' time be granted to make the alternative arrangement.

To this, Mr. Chetan Mittal, Senior Advocate, assisted by Mr. Kunal Mulwani, Advocate, appearing for the landlord states that in the present case 2½ years will be just to which Mr. Mahajan has agreed.

In view of the consensus formulated between the parties, I am of the view that this Court should attach due sanctity to the consensus arrived at between the parties. Therefore, the tenant is granted two and a half years time to vacate the premises subject to filing an undertaking in the Court of the concerned learned Rent Controller on or before 7.1.2009 that he shall hand over the peaceful vacant possession to the landlord on or before 30.6.2011. The undertaking shall also contain a condition that the entire arrears of rent, if any, shall be paid or tendered in the Court of learned Rent Controller on or before 7.1.2009. The undertaking shall also further contain a condition that rent of each

following month shall be paid on or before 7th of each month. In case undertaking is not filed, law shall take its own course.

In view of the acceptance of alternative prayer made by Mr. Mahajan, he states that he may be allowed to withdraw the present petition.

As prayed, the present petition is dismissed as withdrawn.

(Kanwaljit Singh Ahluwalia)
Judge

December 2, 2008
"DK"